IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

MONDAY, THE 26TH FEBRUARY 2007 / 7TH PHALGUNA 1928

WP(C).No. 28717 of 2004(R)

PETITIONER:

THE KOTTACKAL CO-OPERATIVE URBAN BANK LTD.NO.1378, KOTTACKAL, MALAPPURAM, REPRESENTED BY ITS GENERAL MANAGER.

BY ADV. SRI.T.R.RAMACHANDRAN NAIR

RESPONDENTS:
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1. JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL), MALAPPURAM.

2. KORADAN HAMSA, S/O. HASSANKUTTY KORADAN HOUSE, P.O.PONMULA, MALAPPURAM.

BY ADV. SRI.K.M.SATHYANATHA MENON
ADV. SRI. T.R.HARI KUMAR, SC
GOVERNMENT PLEADER SRI. BASANT BALAJI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/02/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 28717/2004

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE SECURITY BOND DT. 29/6/2000.

EXT.P2. COPY OF THE AWARD DT. 26/3/2003 OF THE ARBITRATOR.

EXT.P3. COPY OF THE REPRESENTATION OF THE R2 DT. 28/6/04.

EXT.P4. COPY OF THE REPLY BY THE BANK DT. 8/7/04.

EXT.P4A. COPY OF THE NOATICE NO. 4658/2004/CRB DT. 20/7/04.

EXT.P5. COPY OF THE JUDGMENT DT. 14/7/2004 IN WPC NO. 20598/04.

EXT.P6. COPY OF THE PETITION FILED BEFORE THE JOINT REGISTRAR BYTHE BANK DT. 30/7/2004.

EXT.P7. COPY OF THE LETTER BY THE BANK TO THE R2 DT. 31/7/04.

EXT.P8. COPY OF THE LETTER BY THE BANK TO THE JOINT REGISTRAR DT. 31/7/2004.

EXT.P9. COPY OF THE CIRCULAR NO. 39/2003 DT. 17/7/2003.

EXT.P10. COPY OF THE CIRCULAR NO. 11/2004 DT. 28/2/2004.

EXT.P11. COPY OF THE CIRCULAR NO. 15/2004 DT. 31/3/2004.

EXT.P12. COPY OF THE CIRCULAR NO. 35/2001 DT. 27/09/2001.

EXT.P13. COPY OF THE CIRCULAR NO. 51/2003 DT. 30/08/2003.

EXT.P14. COPY OF THE ORDER NO. 4658/2004/CRB K.DIS DT. 31/08/2004.

True copy

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KURIAN JOSEPH, J.

W.P.(C) No. 28717 of 2004

Dated this the 26th February, 2007.

J U D G M E N T

The writ petition is filed mainly with the following prayers:

> **" to call for the records leading to Exhibit.P14 and quash the same by the issuance of a writ of certiorari or any other writ, direction or order;**
>
> **to grant a declaration that the petitioner-Bank is covered only under the OTS Scheme contained in Exhibits – P10 and P11"**

2. The main contention of the petitioner Bank is that being an Urban Bank, only the scheme that is approved by the Reserve Bank alone is applicable. It is contended that Circular No.15/2004 is not a scheme approved by the Reserve Bank of India. There is no counter affidavit. Having heard the learned counsel for the both sides, I am of the view that the matter is to be considered afresh by the 1st respondent regarding the eligibility of the 2nd respondent. I quash Ext.P14 with a direction to 1st respondent to consider the matter afresh with notice to 2nd respondent and petitioner and pass appropriate orders in accordance with law. It is made clear that the 2nd

respondent shall be entitled only to the benefits of the scheme regarding settlement as approved by the Reserve Bank of India, since the petitioner is an Urban Bank. Orders shall be passed within a period of four months from the date of receipt of a copy of this Judgment.

The writ petition is disposed of as above.

(KURIAN JOSEPH, JUDGE)

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KURIAN JOSEPH, J.

OP No.

JUDGMENT

13th March, 2006